

## **REMARKS**

Claims 1 – 48 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Want (U.S. Patent No. 6,008,727) in view of Bayley (U. S. Patent No. 6,611,673). Applicant respectfully traverses these rejections for at least the following reasons.

### **Claim Rejections Pursuant to 35 U.S.C. §103(a)**

Claims 1 – 48 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Want (U.S. Patent No. 6,008,727) in view of Bayley (U. S. Patent No. 6,611,673). Applicant respectfully traverses these rejections for at least the following reasons.

35 U.S.C. §103(a) recites:

[a] patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the

art, to modify the references or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). MPEP 706.02(j).

Independent Claim 1 recites:

1. A system for providing instructions directly relating to a substantially immovable equipment at an inaccessible location, comprising:

(A) a permanently spatially fixed processor and memory device affixed to the substantially immovable equipment, the instructions directly relating to a substantially immovable equipment residing on the memory device; and

(B) a portable memory reading device, separate from the memory device, that retrieves the instructions from the memory device and communicates the instructions to a user of said portable memory reading device,

wherein said processor processes the instructions to and from said memory device, including processing for forwarding of the instructions from the memory device to said memory reading device.

Applicant respectfully submits that Want does not teach the claimed elements of Claim 1. Further, Applicant submits that Want teaches away from the

presently claimed invention. Want teaches that “the electronic tags 32 or 42, 44 and 46 are brought near one or more of the tag readers, query/response signals 22 and 24 are passed between the electronic tags and the tag reader, and the identification number of the read electronic tag is passed to the computer system.”

Want, col. 6, lines 53-58. Further, Want teaches that “the computer system 12 is used to interpret the identification number of the electronic tag and provide the requested digital service.” Want at Col. 8 line 66 – Col. 9, line 1. The ongoing rejections state that Applicant’s claim is rendered unpatentable because Want’s electronic tags read on Applicant’s memory device. It is clear that Want teaches a sensing activated system preferentially for goods that are mobile, such as in a theft deterrent system, for example. See Want at Col. 9, lines 22 – 44 and Col. 6, lines 59 – 65.

On the other hand, the present invention claims “a system for providing instructions directly relating to a substantially immovable equipment at an inaccessible location,” including “a permanently spatially fixed processor and memory device affixed to the equipment.” *Claim 1*. As may be seen from the relevant portions of Claim 1, Applicants invention embodies a substantially stationary memory device affixed to a substantially stationary location or equipment. Applicant submits that Applicant’s spatially fixed memory device affixed to a substantially immovable equipment at an inaccessible location is thus distinct from Want’s electronic tags that are mobile, at least in that Want is directed principally to movable equipment, and in that Want requires accessibility.

Applicant believes at least these distinctions render Want inapplicable as a reference, as Want teaches away from the present invention.

Applicant further submits that Claim 1 claims “the instructions directly relating to a substantially immovable equipment.” On the contrary, Applicant respectfully submits that Want’s instructions do not directly relate to the equipment. Rather, Want’s instructions arguably, at best, identify a good by emitting or transmitting a given RF signal. Such a RF signal may be cross-referenced, such as in a remote database, to determine the good identified. In the present invention the instructions transmitted to the portable memory reading device, in fact, contain the instruction that the user of the present system is requesting to receive, and the additional cross-referencing step of Want is neither required nor desired.

Additionally, Claim 1 includes a “wherein said processor processes the instructions to and from said memory device, including processing for forwarding of the instructions from the memory device to said memory reading device.” The present invention includes a device located at the inaccessible location. This device includes the capabilities of processing and memory. On the contrary, the device asserted to read on this device from Want is a RF ID tag. Such a device in Want likely does not qualify as a processor or a memory device, and certainly does not qualify as both. For example, assuming arguendo that an active tag may have a memory for emitting a particular RF ID, or that a passive tag may process incoming RF signals to select a certain frequency to identify the tag, the present

invention performs both functions, and hence is not anticipated by the device of Want.

Applicant further respectfully notes that Applicant's portable reading device as claimed in Claim 1 is distinct from any teachings in Want. Examiner asserts that electronic tag reader 20 as seen and described with respect to Figure 1 teaches Applicant's portable reading device. On the contrary, Want's electronic tag reader is not portable. The disclosure of Want describes an electronic tag reader 20 "connected to a computer system 12, which further includes a local computer 14, database servers 16 and networked computers 18." In the present invention the portable reading device is portable and used by the user to receive instructions. Want thus fails to teach, at least, a portable memory reading device and communicating instructions to a user, and thus Want cannot anticipate claim 1. *See MPEP 2131.*

Applicant respectfully submits that Bayley fails to rectify the shortcomings in the teachings of Want with respect to the present rejection. Further, Applicant submits that Bayley, alone or in combination with Want, teach away from the presently claimed invention. Bayley teaches that "Tags ... may be attached to ... items, including picture frames, consumer products and packaging, advertising and promotional material, electronic business cards, record-keeping systems, etc." Bayley Col. 3, lines 13 – 18. Applicant respectfully submits that each of the items contemplated in Bayley is movable. It is clear that Bayley teaches sensing a tag

for goods that are mobile, in order to incorporate information, particularly into a telephone for example. See Bayley Col. 3, lines 13 – 40.

On the other hand, the present invention includes a substantially immovable equipment at an inaccessible location,” including “a permanently spatially fixed processor and memory device affixed to the equipment.” *Claim 1*.

As may be seen from the relevant portions of Claim 1, Applicants invention embodies a substantially stationary memory device affixed to a substantially stationary location or equipment. Applicant submits that Applicant's spatially fixed memory device affixed to a substantially immovable equipment at an inaccessible location is thus distinct from Bayley's electronic tags that are mobile, at least in that Bayley is directed principally to movable equipment, and in that Bayley requires accessibility. Applicant believes at least these distinctions render Bayley inapplicable as a reference, as Bayley teaches away from the present invention.

Applicant further submits that Claim 1 claims “the instructions directly relating to a substantially immovable equipment.” On the contrary, Applicant respectfully submits that Bayley's instructions do not directly relate to the equipment. Rather, Bayley's instructions arguably, at best, identify a good by emitting or transmitting a given RF signal or a telephone number linked to a goods, such as poison control number for poison bottles. Such a RF signal may be cross-referenced, such as in a remote database, to determine the good identified. In the present invention the instructions transmitted to the portable memory reading device, in fact, contain the instruction that the user of the present

system is requesting to receive, and the additional cross-referencing step of Bayley is neither required nor desired. Bayley further does not provide information directly related to the device associated with the tag in that in the system of Bayley, for example, information is not provided as to what poison is within the container, instead only a identifier for the phone number for poison control or the phone number itself is provided. This is distinct from the information presented to the device of the present invention wherein, in fact, information directly related to the location is provided.

Additionally, Claim 1 includes a “wherein said processor processes the instructions to and from said memory device, including processing for forwarding of the instructions from the memory device to said memory reading device.” The present invention includes a device located at the inaccessible location. This device includes the capabilities of processing and memory. On the contrary, the device asserted to read on this device from Bayley is a RF ID tag. Such a device in Bayley likely does not qualify as a processor or a memory device, and certainly does not qualify as both. For example, assuming arguendo that an active tag may have a memory for emitting a particular RF ID, or that a passive tag may process incoming RF signals to select a certain frequency to identify the tag, the present invention performs both functions, and hence is not anticipated by the device of Bayley.

Consequently, Applicant traverses the 35 U.S.C. §103(a) rejection of Claim 1 and the dependents therefrom, deems the rejection overcome, and respectfully

requests removal of the rejection. In addition, Applicant submits that independent Claim 1 is in a condition for allowance.

Applicant further submits that Want and Bayley, alone or in combination, fail to teach, and therefore anticipate, Claims 2-15, at least because of these claims' ultimate dependence on patentably distinct base Claim 1. Applicant submits that each of Claims 2-15 are similarly in a condition for allowance.

Applicant further deems the rejections of Claims 16, 29 and 41 overcome for at least the reasons set forth with respect to Claim 1. In addition, Applicant submits that independent Claims 16, 29 and 41 are in a condition for allowance.

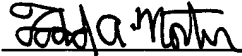
Applicant further submits that Want fails to teach, and therefore anticipate, Claims 17-28, 30-40 and 42-48 at least because of these claims' ultimate dependence on patentably distinct base Claim 16, 29 and 41, respectively. Applicant submits that each of Claims 17-28, 30-40 and 42-48 are similarly in a condition for allowance.



**Conclusion**

Applicant respectfully requests reconsideration of the present Application in light of the reasons set forth herein, and a Notice of Allowance for all pending claims is earnestly solicited.

Respectfully Submitted,



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